

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
Closed Captioning and Video Description )  
of Video Programming )  
)  
Implementation of Section 305 of the )  
Telecommunications Act of 1996 )  
)  
Video Programming Accessibility )

MM Docket No. 95-176

**COMMENTS OF UNIVISION COMMUNICATIONS INC.**

Univision Communications Inc. ("Univision"), by its attorneys, hereby submits its comments in the above-referenced proceeding. Univision operates the Univision Network, a Spanish language television network affiliated with 39 television stations nationwide. Through its subsidiary, Univision Television Group, Inc., Univision owns and operates eleven full power and seven low power television stations affiliated with the Univision Network. As both a program distributor and a licensee, Univision will be significantly affected by the rules adopted by the Commission in this proceeding. Because Univision's programming is in Spanish, the challenge of providing closed captioning for all of the programs in Univision's program schedule is particularly daunting. However, Univision supports the admirable goals behind closed captioning and will endeavor to provide this service to its audience. In these comments, Univision urges the Commission to provide Spanish language television stations with sufficient flexibility and time to make closed captioning a reality for their Spanish speaking audiences.

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As an initial point, Univision faces a number of obstacles in captioning its programming. Because the majority of programs aired by Univision are produced outside the United States by foreign producers, they are not available with closed captioning. This is not likely to change, as these producers' domestic markets do not require closed captioning, and decoders for closed captioned programming are therefore relatively rare in these countries. Also, the production budgets for Spanish language programming produced outside the United States are much smaller than is typical for English language programming produced in the United States. The added cost of captioning therefore represents a far larger percentage of program production costs in foreign language programming.

Because foreign language programming is created primarily for distribution in the countries in which it is produced, Univision and the United States represent a secondary market for these producers. As a result, Univision's ability to contractually demand that foreign program producers begin captioning their programming is very limited. Stated simply, the value of the Spanish-speaking U.S. market to such producers is not great enough for them to incur the added cost of captioning. Further complicating the issue is the lack of experience and equipment for closed captioning in these countries. Applying a contractual requirement that all programming being provided to Univision be submitted with closed captioning included would merely eliminate much of the Spanish language programming that is currently available to Hispanic viewers.

As the Commission noted in its Notice of Proposed Rulemaking ("NPRM") in this proceeding, there is general agreement that captioning should be primarily handled by the program producer, as it is "inefficient and burdensome" to have program distributors attempt to add captioning after the program has been produced. NPRM at 17-18. Program distributors do

not have access to the scripts and other materials necessary to efficiently caption programming. For this reason, Univision supports placing the responsibility for captioning programming with program producers. This not only ensures that the captioning will be performed in the most efficient and accurate manner possible, but also avoids the duplicitous waste of resources involved in having each station that airs a program produce its own captioned version of that program. Moreover, a program producer that repeatedly sells the exhibition rights for a program has a far greater incentive to create high quality captioning than a program distributor or station that intends to air the program only once.

In the case of Univision, however, the Commission appears to lack jurisdiction to require Univision's foreign program suppliers to provide closed captioning. As a result, that responsibility will fall squarely on Univision's shoulders. The difficulty in creating closed captioning for Spanish language programs, particularly those produced outside the U.S., is exacerbated by the quantity of programming involved. The NPRM notes that ABC, CBS and NBC each provide between 83 and 95 hours of programming per week, and that Fox, UPN and the WB Network each provide between 9 and 35 hours of programming per week. NPRM at 11-12. In contrast, Univision distributes 168 hours of programming per week to its affiliates, all of which will have to be captioned by Univision itself.

In addition, Univision's owned and operated stations produce local news and public affairs programs that are substituted for the network feed at those stations. Each of Univision's stations will therefore have to have local Spanish language captioning capabilities. The skilled personnel necessary for such an effort currently do not exist, and will continue for some time to be unavailable for Spanish language stations in all but the largest markets. As the NPRM notes,

this is one of the main reasons why foreign language programming is currently not captioned.

NPRM at 10 n.32.

Given that, among the networks, Univision is: (a) faced with the lowest percentage (0%) of producer-captioned programming, (b) distributes almost twice as much programming per week as ABC, CBS and NBC, and (c) must adapt closed captioning technology to Spanish language programming, the challenge faced by Univision is overwhelming. Assuming that the technical and logistic difficulties can be overcome, the cost to Univision for closed captioning could easily be \$10-15 million dollars per year. That amount is more than the individual gross revenues of over half of the Univision-owned stations, and will raise substantially Univision's programming costs.

While Univision supports the Commission's objective in this proceeding, the difficulties described above, as well as numerous other practical obstacles, will require extensive effort and resources to overcome. Therefore, should the Commission decide to apply captioning requirements to Spanish language programming in this proceeding, Univision requests that the Commission adopt a longer phase-in period for Spanish language stations than for English language stations. Given the obstacles that must be overcome before captioning could begin, Univision suggests that the ten year phase-in period proposed by the Commission in the NPRM be adopted, but that its application to Spanish language stations be delayed five years after the effective date for English language stations. This will hopefully provide sufficient time for Spanish language program distributors and stations to develop a Spanish language captioning capability and to attempt to persuade producers of Spanish language programming to caption programming at the time it is produced. If these efforts are successful within the next five years,

Spanish language stations will then be in a position roughly equivalent to that of English language stations today -- *i.e.*, ready to begin the ten year phase-in of closed captioning.

If a shorter time period is used, Univision fears that the Commission will be inundated with requests from Spanish language stations for exemptions from the closed captioning requirement based on either economic burden or equipment limitations. Moreover, improvements in captioning technology resulting from this rulemaking will hopefully lower the costs of captioning within the next five years, thereby making it possible for Spanish language stations to afford the necessary equipment and personnel. Otherwise, the severe impact on program budgets caused by the added cost of captioning threatens to reduce the overall quality of programming that a station will be able to afford, thereby harming all viewers. It would be unfortunate if Spanish language stations, whose program budgets are typically much smaller than that of their English language counterparts, could not afford to caption programming and are therefore forced to choose less attractive programming merely because it has been pre-captioned by the producer.

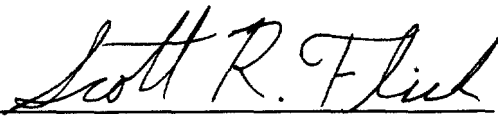
Alternatively, the Commission may wish to recognize the inherent difficulty and expense of captioning foreign-produced programming long after its creation, and choose to exempt foreign language programming produced outside of the United States from the captioning requirement. This would greatly reduce the burden that captioning will create for Spanish language stations. It would also recognize the reality that foreign producers are unlikely to incur the substantial cost of captioning programming merely to make it more attractive in the United States.

**Conclusion**

Univision is an advocate of closed captioning, but believes that such captioning, in order to be both high quality and economically feasible, must generally be handled by the program producer. Where this is not possible, the burden on stations will be substantial. Given the unique obstacles facing Univision and other Spanish language station operators, Univision urges the Commission to provide Spanish language stations with a longer phase-in period for closed captioning, or to exempt from the captioning requirement all foreign language programming produced outside of the United States. Either of these actions will provide much-needed flexibility to Spanish language stations in their efforts to adopt closed captioning. Such flexibility will greatly enhance the chances of ultimately achieving the Commission's objective of closed captioning for all programming, while minimizing the harm to Spanish language stations and audiences.

Respectfully submitted,

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